

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

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| <b>ILLINOIS BELL TELEPHONE COMPANY (AMERITECH)</b>                        | )                |
| <b>and XO Illinois, Inc. (XO ILLINOIS)</b>                                | )                |
|   | ) <b>02-0445</b> |
| <b>Joint Petition for Approval of Third Amendment to Interconnection</b>  | )                |
| <b>Agreement, dated May 1, 2002 pursuant to 47 U.S.C. §§252(a)(1) and</b> | )                |
| <b>252(e)</b>   | )                |

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**VERIFIED STATEMENT OF A. OLUSANJO OMONIYI**

My name is A. Olusanjo Omoniyi and I am employed by the Illinois Commerce Commission as a Policy Analyst in the Telecommunications Division. I graduated from Southern Illinois University at Carbondale with a Bachelor of Arts degree in Cinema & Photography and Bachelor of Science degree in Radio-Television in 1987. In 1990, I obtained a Master of Arts degree in Telecommunications and a Juris Doctor in 1994 also from Southern Illinois University at Carbondale. Among my duties as a Policy Analyst is to review negotiated agreements and provide a recommendation as to their approval.

**SYNOPSIS OF THE AGREEMENT**

The instant interconnection agreement between ILLINOIS BELL TELEPHONE COMPANY ("AMERITECH" or "Carrier") and XO ILLINOIS, INC. (XO ILLINOIS or "Requesting Carrier") is the Third Amendment between the parties. This Agreement added an Appendix of Illinois Recourse Credits to the underlying Agreement. This Amendment is intended to supersede and replace any provisions by which AMERITECH was required to reimburse XO ILLINOIS for amounts paid to XO

ILLINOIS' end users for failure to meet any performance or service related obligations. Also, the Table of Contents of the underlying Agreement was modified to add additional Appendix. The underlying Agreement establishes key provisions regarding the financial and operational terms including, but not limited to, the physical interconnection between AMERITECH and XO ILLINOIS' networks on access to rights of way and databases; unbundled access to AMERITECH's network elements, including AMERITECH operations support systems functions; collocation; number portability; resale; and a variety of other business relationships.

Furthermore, if any provision in the underlying Agreement conflicts with this Third Amendment, this Third Amendment shall control. The underlying Agreement 's terms, conditions and termination provisions will not be affected by this Third Amendment but shall be coterminous.

The purpose of my verified statement is to examine the agreement based on the standards enunciated in section 252(e)(2)(A) of the 1996 Act. Specifically, this section states that:

- The State commission may only reject an agreement (or any portion thereof) adopted by negotiation under subsection (a) if it finds that :
- (i) the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement; or
  - (ii) the implementation of such agreement or portion is not consistent with the public interest, convenience, and necessity.

Also, under authority granted the Commission by Section 252(e)(3) of the 1996 Telecom Act, this agreement has been reviewed for consistency with the requirements of the Illinois PUA and regulations, rules and orders adopted pursuant thereof.

## **I        APPROVAL UNDER SECTION 252(e)**

### **A.       DISCRIMINATION**

The first issue that must be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it discriminates against a telecommunications carrier that is not a party to the agreement.

Discrimination is generally defined as giving preferential treatment. In previous dockets, Staff has taken the position that in order to determine if a negotiated agreement is discriminatory, the Commission should determine if all similarly situated carriers are allowed to purchase the service under the same terms and conditions as provided in the agreement. I recommend that the Commission use the same approach when evaluating this negotiated agreement.

A carrier should be deemed to be a similarly situated carrier for purposes of this agreement if telecommunications traffic is exchanged between itself and AMERITECH termination on each other's networks and if it imposes costs on AMERITECH that are no higher than the costs imposed by XO ILLINOIS. If a similarly situated carrier is allowed to purchase the service(s) under the same terms and conditions as provided in this contract, then this contract should not be considered discriminatory. Evaluating the term discrimination in this manner is consistent with the economic theory of discrimination. Economic theory defines discrimination as the practice of charging different prices (or the same prices) for various units of a single product when the price differences (or same prices) are not justified by cost. See, Dolan, Edwin G. and David E. Lindsey, Microeconomics, 6<sup>th</sup> Edition, The Dryden Press, Orlando, FL (1991) at pg.

586. Since Section 252(i) of the 1996 Act allows similarly situated carriers to enter into essentially the same contract, this agreement should not be deemed discriminatory.

## **B. PUBLIC INTEREST**

The second issue that needs to be addressed by the Commission in approving or rejecting a negotiated agreement under Section 252(e)(2)(A) is whether it is contrary to the public interest, convenience, and necessity. I recommend that the Commission examine the agreement on the basis of economic efficiency, equity, past Commission orders, and state and federal law to determine if the agreement is consistent with the public interest.

In previous dockets, Staff took the position that negotiated agreements should be considered economically efficient if the services are priced at or above their Long Run Service Incremental Costs ("LRSICs"). Requiring that a service be priced at or above its LRSIC ensures that the service is not being subsidized and complies with the Commission's pricing policy. All of the services in this agreement are priced at or above their respective LRSICs. Therefore, this agreement should not be considered economically inefficient.

Nothing in this agreement leads me to the conclusion that the agreement is inequitable, inconsistent with past Commission Orders, or in violation of state or federal law. Therefore, I recommend that the Commission approve this agreement.

## **II IMPLEMENTATION**

In order to implement the AMERITECH -XO ILLINOIS agreement, the Commission should require AMERITECH to, within five (5) days from the date the agreement is approved, modify its tariffs to reference the negotiated agreement for each service. Such a requirement is consistent with the Commission's Orders in previous negotiated agreement dockets and allows interested parties access to the agreement. The following sections of AMERITECH tariffs should reference the AMERITECH -XO ILLINOIS Agreement: Agreements with Telecommunications Carriers (ICC No. 21 Section 19.15).

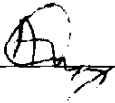
Also, in order to assure that the implementation of the Agreement is in public interest, AMERITECH should implement the Agreement by filing a verified statement with the Chief Clerk of the Commission, within five (5) days of approval by the Commission, that the approved Agreement is the same as the Agreement filed in this docket with the verified petition; the Chief Clerk should place the Agreement on the Commission's web site under Interconnection Agreements.

For the reasons enumerated above, I recommend that the Commission approve this agreement pursuant to Section 252(e) of the Telecommunications Act of 1996.

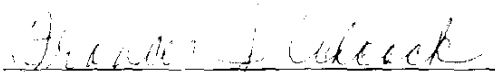
VERIFICATION

STATE OF ILLINOIS            )  
  ) SS  
COUNTY OF SANGAMON        )

I, A. Olusanjo Omoniyi, do on oath depose and state that if called as a witness herein, I would testify to the facts contained in the foregoing document based upon personal knowledge.

  
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SIGNED AND SWORN TO BEFORE ME THIS 16<sup>th</sup> DAY OF  
July, 2002.

  
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NOTARY PUBLIC

